



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/25/5188

Re: Property at 147 Caledonian Road, Wishaw, ML2 8AT (“the Property”)

Parties:

Mr Andrew Prentice, Mrs Margaret Prentice, C/O 2 Stewarton Street, Wishaw, ML2 8AN (“the Applicant”)

Mrs Sarah Gibson, Mr Roy Gibson, 147 Caledonian Road, Wishaw, ML2 8AT; 2 Beltane Street, Wishaw, ML2 0HD (“the Respondent”)

Tribunal Members:

Hilary Macandrew (Legal Member) and Ahsan Khan (Ordinary Member)

Decision in absence of the Applicant and the Respondent Mrs Sarah Gibson

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Eviction Order is Refused and the Application is Dismissed.

1) Background

- 1.1 By Application dated 1st December 2025 the Applicant seeks an order for eviction relying on Ground 12 (rent arrears for three or more consecutive months) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 1.2 The application to the Tribunal was made by Form E and was accepted for determination by the Tribunal on 9th March 2026.
- 1.3 Intimation of the application and of the Initial Case Management Discussion (CMD) was effected upon the Respondent by sheriff officers on 18th May 2026.

1.4 The Applicant lodged the following documents in advance of the case management discussion (CMD):-

- Private residential tenancy agreement dated 19th April 2019
- Notice to Leave 28th October 2025
- Section 11 Notice to Local Authority
- Rent statements
- Pre Action Requirement correspondence which included emails and correspondence from the Landlord's agent detailing sources of independent support and advice.

2) The Initial Case Management Discussion (CMD)

2.1 The CMD took place on 18 June 2026 at 10.00 by telephone. The Applicants were not present and were represented by Ms. Scott of the Applicants' Representatives. The First-named Respondent, Mrs. Gibson, was present and was not represented. The Second-named Respondent, Mr. Gibson, was not present and was not represented. The Tribunal was satisfied that Mr. Gibson had been served with the Application by Sheriff Officer on 18 May 2026 at his current address and so was aware both of the proceedings and that he ought to attend. Accordingly, the Tribunal proceeded in his absence.

2.2 Ms. Scott advised the Tribunal that Mrs. Gibson had telephoned her stating that the Property had been vacated and that the keys to the Property would be returned on the date of the CMD. Mrs. Gibson agreed that she had vacated the Property and advised the Tribunal that she expected to be given keys to a local authority tenancy at the beginning of the following week. She explained that Mr. Gibson no longer resided at the Property. Ms. Scott confirmed that she was aware that Mr. Gibson no longer resided at the Property and explained that he had not notified the Applicants of this in writing. Ms. Scott advised the Tribunal that if Mrs. Gibson vacated the Property and returned the keys, she would accept this on behalf of the Applicants as a termination of the tenancy.

2.3 In the circumstances, the Tribunal adjourned the CMD to allow Mrs. Gibson to write to the Applicants' Representatives by email to give up the tenancy formally and to return the keys and, thereafter, for Ms. Scott to withdraw the Application.

2.4 The CMD was adjourned to a later date to be intimated to the Parties

3) The Adjourned CMD (ACMD)

3.1 The ACMD took place on 30th September 2026 at 2pm by telephone. The Applicant was neither present nor represented. The First-Named Respondent Mrs Gibson was neither present nor represented. The Tribunal was satisfied that the Applicant and Mrs Gibson had been notified of the ACMD by email on 4th September 2026. The Second-Named Respondent Mr Gibson was present. Mr Gibson told the Tribunal that he and Mrs Gibson had separated over two and a half years ago and he has not lived in the property since then. He

understood the property was empty based on what he has seen when he has walked past the property.

- 3.2 The Tribunal clarified with the Clerk that no correspondence had been received from either the Applicant nor from the First-Named Respondent Mrs Gibson.
- 3.3 In the absence of the Applicant, the Tribunal refused the Eviction Order and dismissed the Application through lack of insistence.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.



Hilary Macandrew

Legal Member/Chair

30th September 2026

Date